IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE EIGHTEENTH DAY OF AUGUST
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE GODA RAGHURAM

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WRIT PETITION NO : 18144 of 2005

Between:

G. Rama Rao S/o. Mallaiah
Dealer (Under cancellation) R/o. Korlamanda (V),

Vissannapet (M), Krishna District,

..... PETITIONER

AND

1 The District Collector, Krishna, Machilipatnam,
2 The Joint Collector, Krishna, Machilipatnam,
3 The Revenue Divisional Officer, Nuzvid, Krishna District,
4 The Mandal Revenue Officer, Vissannapet (M), Krishna District,

.....RESPONDENTS

ORDER:

The petitioner was an authorizee of the fair price shop in Korlamanda Village, Vissannapet Mandal, Krishna District.

On 06.09.2002 the third respondent cancelled the authorization of the petitioner on the ground that the Joint Collector, Krishna District had directed confiscation of 100% value of the stock to the Government in a proceedings initiated against the petitioner under Section 6(A) of the Essential Commodities Act, 1955. The petitioner preferred an appeal to the second respondent against the order of cancellation. The appeal was dismissed on 25.02.2003. Thereupon, the petitioner filed a revision to the first respondent. By the order, dated 22.08.2003, the first respondent disposed of the revision and as directed the preliminary authority-the third respondent to conduct a fresh enquiry and pass appropriate final orders after considering the appellate decision of the learned District Judge in the petitioner's appeal preferred against the orders of confiscation.

In E.C. Appeal No.56 of 2002, the learned District Judge, Krishna District by the

Judgment dated 28.06.2004 confirmed the findings of the Joint Collector that the petitioner had clandestinely kept kerosene in the house of his brother without distributing the same under the Public Distribute System and was indulging in clandestine business of kerosene. However, the District Court modified the order of confiscation of 100% in respect of all the stocks seized and confined the confiscation to kerosene. Subject to this modification, the appeal was dismissed.

After the disposal of the appeal, the third respondent by the order dated 15.09.2004 and in accordance with the order of the District Collector in the revision preferred by the petitioner, passed fresh orders reiterating the earlier orders of cancellation of the petitioner's authorization by recording the reason that the learned District Judge in the E.C. appeal, as also found the petitioner guilty of the serious transgressions of the control order. As against the above order of the third respondent the petitioner preferred an appeal to the second respondent. The appeal was dismissed by the order, dated 29.04.2005. The revision preferred by the petitioner to the first respondent also proved futile and was dismissed by the order, dated 30.06.2005.

Sri K.Vinay Kumar, learned counsel for the petitioner would strenuously urge that as the order of total confiscation of all the goods in the petitioner's shop as ordered by the Joint Collector were modified by the learned District Judge in the E.C. appeal, this fact ought to have been give due consideration by the third respondent and the third respondent acted irrationally in ordering cancellation, without a rational consideration of the fact that the petitioner was not involved in the transgression of the control order as regards the other commodities as found in the appeal. The orders of the second and first respondent in appeal and revision are also vitiated for the same reasons.

None of the contentions urged on behalf of the petitioner warrant acceptance by this Court. Both the Joint Collector as well as learned District Judge (in confiscation proceedings) found the petitioner guilty of grave violation of the provisions of the control order and involved in diverting the public distribution system kerosene for extraneous purposes. Such a conduct concurrently found by the Joint Collector and learned District Judge constitutes misconduct of the severest kind.

In the these circumstances, the order of the third respondent inflicting on the petitioner the penalty of cancellation of authorization appears reasonably related to the misconduct found against the petitioner. The cancellation of authorization of the

petitioner does not suffer from the infirmity of disproportionate penalty imposed. For the reasons alike the orders of the second and first respondent in appeal and revision confirming the orders of cancellation of the petitioner's authorization suffer from no infirmity, warranting interference by this Court.

There are no merits in the writ petition and it is accordingly dismissed at the stage of admission after hearing the learned Government Pleader for Civil Supplies also.

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18-08-2005

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